

~~2:17-cr-00072-RFB~~

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

1 UNITED STATES OF AMERICA,)
 2) Case No. 2:17-cr-00072-RFB
 3)
 4 Plaintiff,)
 5) Las Vegas, Nevada
 6 vs.) Thursday, August 5, 2021
 7) 11:07 a.m.
 8 VONTEAK ALEXANDER,)
 9) HEARING REGARDING RESTITUTION
 10)
 11 Defendant.)
 12) **C E R T I F I E D C O P Y**
 13)
 14)
 15)
 16)
 17)
 18)
 19)
 20)
 21)
 22)
 23)
 24)
 25)

REPORTER'S TRANSCRIPT OF ZOOM VIDEOCONFERENCE PROCEEDINGS

THE HONORABLE RICHARD F. BOULWARE, II,
 UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: **ELHAM ROOHANI, AUSA**
 UNITED STATES ATTORNEY'S OFFICE
 501 Las Vegas Boulevard South, Suite 1100
 Las Vegas, Nevada 89101
 (702) 388-6336

For the Defendant: **PAUL RIDDLE, ESQ.**
 FEDERAL PUBLIC DEFENDER
 411 E. Bonneville Avenue, Suite 250
 Las Vegas, Nevada 89101
 (702) 388-6577

COURT REPORTER: Patricia L. Ganci, RMR, CRR
 United States District Court
 333 Las Vegas Boulevard South, Room 1334
 Las Vegas, Nevada 89101

Proceedings reported by machine shorthand, transcript produced
 by computer-aided transcription.

2:17-cr-00072-RFB

1 APPEARANCES CONTINUED:
For Jane Doe:

2
3 **ROSE M. MUKHAR, ESQ.**
4 JUSTICE AT LAST
5 P.O. Box 566
6 San Carlos, CA 94070
7 (650) 995-4893

8 LAS VEGAS, NEVADA; THURSDAY, AUGUST 5, 2021; 11:07 A.M.

9 --oOo--

10 P R O C E E D I N G S

11 THE COURT: All right, counsel. I'm going to call this
12 case at this time. This is the case of United States versus
13 Vontek Alexander, Case Number 2:17-cr-72. If counsel would
14 please announce their presence for the record starting with
15 Defense counsel.

16 Ah. Mr. Riddle, you seem to be muted.

17 There you go.

18 MR. RIDDLE: You would think I'd have this figured out
19 by now, Your Honor, but I still struggle. I apologize.

20 Good morning. Paul Riddle on behalf of Vontek
21 Alexander, who is present by way of video conferencing, and
22 he consents to proceeding today by way of video.

23 THE COURT: Okay. And good morning.

24 Good morning, Mr. Alexander. Can you see and hear me?

25 THE DEFENDANT: No, you paused right now.

THE COURT: I said, can you hear me now?

THE DEFENDANT: I can hear you, but your -- your --

2:17-cr-00072-RFB

1 your video's paused.

2 THE COURT: Okay. But -- but okay. But you can hear
3 me, though, now and see me?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. All right. And you're agreeing to
6 appear by videoconference voluntarily. Is that correct?

7 THE DEFENDANT: Yes.

8 THE COURT: Okay. All right. I do find that you have
9 knowingly and voluntarily waived your right to appear in person,
10 and we shall proceed by videoconference pursuant to the CARES
11 Act.

12 Ms. Roohani, for the Government.

13 MS. ROOHANI: Good morning, Your Honor. Eli Roohani
14 for the United States.

15 THE COURT: And good morning.

16 And we also have counsel here, Ms. Mukhar.

17 MS. MUKHAR: Good morning, Your Honor. Rose Mukhar,
18 pro bono attorney for crime victim, Jane Doe.

19 THE COURT: Okay.

20 So we're here for a restitution hearing, but my concern
21 is a little bit -- Ms. Mukhar, I don't know if you saw
22 Mr. Riddle's filing yesterday and whether or not you've had an
23 opportunity to be able to respond to that or not. I'm just
24 concerned that there may not -- you may not have had enough time
25 to respond. And so are we able to proceed today?

—2:17-cr-00072-RFB—

1 MS. MUKHAR: Thank you, Your Honor.

2 Yes, I did get an e-mail yesterday at 4:30 in the
3 afternoon, a notification from the Court of a filing by
4 Mr. Riddle, although I didn't get a courtesy notification in
5 advance of that. But I feel prepared to go forward today based
6 on the filing.

7 THE COURT: Okay. So why don't you go ahead. And why
8 don't we start there, Ms. Mukhar, because here's what I will
9 tell you, and this is the issue for me, is your filing is based
10 upon contested conduct in this case. There's no dispute about
11 the fact that the plea agreement says that Mr. Alexander has
12 admitted to Transportation in Aid of Unlawful Activity.
13 Precisely the extent of that unlawful activity is not agreed
14 upon by the parties or admitted by Mr. Alexander.

15 And so it would seem to me that some of what you have
16 requested would be disputed and could not be ordered by the
17 Court, which would be different potentially, for example, from
18 other types of expenses which you reference, but you didn't
19 document, so, for example, potential medical or treatment
20 expenses, things of that nature as a result of the
21 Transportation in Aid of Unlawful Activity. That would -- that
22 would seem to be something that might be more in line with what
23 the particular statute says and that's not contested in relation
24 to the conduct.

25 So my concern and my question to you, Ms. Mukhar, is

—2:17-cr-00072-RFB—

1 that your -- your request is based upon contested conduct, and
2 while there are limitations as it relates to an individual's due
3 process rights, it certainly can't -- from my perspective,
4 restitution can't be based upon conduct that is so explicitly
5 contested and denied. So I would like for you to respond to
6 that, please.

7 MS. MUKHAR: Thank you, Your Honor, and I'm happy to.
8 And I just had some notes briefly prepared, but I am happy to
9 just jump right in.

10 You're right. This is a restitution hearing on behalf
11 of a crime victim who was age 12 years old. And if we look at
12 what the actual plea itself is, that actually relates
13 specifically to the losses of this 12-year-old child. So, you
14 know, what is the plea itself? I don't know if I can just --
15 Court can humor me for a moment and I can pull it up. We all
16 are familiar with it.

17 But just, the defendant traveled in interstate foreign
18 commerce. So there -- so there's two counts of the plea for
19 interstate travel, and the loss is directly tied to that
20 interstate travel and the unlawful activity that came from that.
21 So --

22 THE COURT: But that's not admitted, right. You have
23 put forward unlawful activity that's based upon trafficking,
24 right, and I don't have a record in front of me that is -- would
25 establish that based upon the plea. Certainly there is

—2:17-cr-00072-RFB—

1 suggestion that that was what the unlawful activity was, but
2 Mr. Alexander and his counsel have contested the nature of what
3 that unlawful activity was as laid out in your restitution
4 submission.

5 So how can I accept that when I don't actually have
6 testimony on that one way or the other? I don't have an
7 adequate record to be able to establish what the time frame or
8 the period was when the defendant and the Government in this
9 case have not put forward facts that would establish that. So
10 how could I then order restitution based upon that time frame?

11 MS. MUKHAR: Thank you, Your Honor.

12 And so I would go -- request that the Court go back,
13 and what the Court previously found within the PSR, findings
14 that the victim was credible in her statements to law
15 enforcement about what actually transpired. And based on that,
16 the findings for some time less -- I believe it was in 2020 or
17 2019 is what the Court initially had ordered back then.

18 THE COURT: So, I'm sorry, are you -- you're suggesting
19 that what the Court could do is use the PSR as a basis for
20 making its determination.

21 Now, Mr. Riddle, I want to ask you -- I'm going to go
22 back and look at this section of the PSR, but, perhaps, you
23 could tell me which portions were objected to and which portions
24 were not. Because I know this has been an ongoing issue in this
25 case as relates to what the actual offense conduct was.

—2:17-cr-00072-RFB—

1 Your -- your camera's a little bit -- oh, now you're
2 not frozen. Having some technical difficulties --

3 MR. RIDDLE: Your Honor, apparently I'm having some
4 internet issues today. Can I call in so I don't have any
5 internet issues?

6 THE COURT: Sure, sure. That's fine.

7 MR. RIDDLE: I'll call in right now. I'm so sorry.

8 THE COURT: That's all right.

9 (Pause.)

10 THE COURT: And -- well, let's wait for Mr. Riddle.
11 Because, Ms. Roohani, I'm going to ask you to also comment as
12 well.

13 Let's see. Mr. Riddle, can you hear us now?

14 MR. RIDDLE: I can hear you through my phone, Your
15 Honor. I muted my computer, and hopefully I can -- there won't
16 be any breakups in the audio now that I have you on my phone.

17 THE COURT: Okay. Yes, I can hear you more clearly,
18 and we don't necessarily need to see you. We do know what you
19 look like.

20 So, Mr. Riddle, again, perhaps, you could -- I mean,
21 because this -- as I have indicated, this has been an ongoing
22 issue and dispute in this case, and I want to ask you about both
23 the PSR, but also Ms. Mukhar's argument as it relates to what's
24 in it.

25 MR. RIDDLE: And, Your Honor, I missed some of that,

—2:17-cr-00072-RFB—

1 but it's my understanding that the Court made significant
2 revisions to the PSR after our last hearing because we contested
3 everything that essentially wasn't admitted to by -- in the plea
4 agreement and in the filed submission that we provided to the
5 Court. So obviously what is in the PSR after the Court's
6 revisions, we admit to that conduct.

7 But, Your Honor, our argument still is that the conduct
8 related to -- did not result in restitution under 18 U.S.C.
9 1593, but instead is restitution under the statute that's cited
10 specifically in the plea agreement, which is 2259, which is a
11 separate analysis than the analysis that's laid out in
12 Ms. Mukhar's motion.

13 THE COURT: That's true, but the Court could use her
14 same argument under 2259 to order restitution, and looking at
15 2259, certainly there is a -- there is a provision for lost
16 income, right?

17 MR. RIDDLE: There is a provision for lost income, Your
18 Honor, yes.

19 THE COURT: So it seems to me, Mr. Riddle, one of the
20 issues, I mean, isn't necessarily the statute because it does
21 seem to me that under the statute that Mr. Alexander has
22 admitted applies, which is 2259, the victim in this case could
23 receive lost income in addition to the other -- the other
24 expenses which I believe are listed in (c)(2) there. There's
25 medical services. There is physical and occupational therapy.

—2:17-cr-00072-RFB—

1 There's transportation, housing and child care, lost income,
2 reasonable attorney's fees, and any other relevant costs
3 incurred by the victim.

4 So you would agree that those are relevant potential
5 categories under 2259, correct, Mr. Riddle?

6 MR. RIDDLE: I would, Your Honor. And then our --
7 Mr. Alexander's argument would be, however, that he was not and
8 never admitted to prostituting the victim in this case. And so
9 lost income would not be the result of any prostitution that she
10 may have been involved in. He denies that he was the
11 beneficiary of any of that. So lost income would -- it wouldn't
12 relate to any -- any fee that she may have collected if she was,
13 in fact, engaged in prostitution.

14 THE COURT: Right.

15 So, Ms. Mukhar, I'm going to go back and look at -- I'm
16 looking at the offense conduct. But the offense conduct does
17 not ... hold on. Let me -- let me read the PSR for a moment.

18 (Pause.)

19 THE COURT: So, Ms. Mukhar, as I read the revised PSR,
20 in paragraphs 14 and 15 and 16, it does not indicate that
21 Mr. Alexander is admitting that he facilitated prostitution. If
22 that is the case, it seems to me that arguments about lost
23 income would not apply. It does seem to me that there could be
24 potential restitution under the other categories of 2259 because
25 I also agree with Mr. Riddle that 2259 is the statute that

2:17-cr-00072-RFB

1 applies.

2 So what I think may be appropriate, Ms. Mukhar, is you
3 having the Court's ruling saying that 2259 is the applicable
4 statute, and given the fact that you may not have had sufficient
5 time to be able to respond, that I would allow you to be able to
6 respond to that argument and supplement your submission and look
7 at those categories because I'm not sure your submission
8 included all of the categories that might be relevant in this
9 statute that I do find applies which Mr. Alexander has admitted
10 applies, which is 2259.

11 So, Ms. Mukhar, I don't think that lost income would
12 apply based upon the admitted facts in the record, but I think
13 potentially the other losses might apply. But I leave that to
14 you, but I want to give you the time to be able to submit
15 something in response to Mr. Riddle's submission.

16 MS. MUKHAR: Thank you, Your Honor.

17 I mean, we -- you know, in addition to -- if we're not
18 looking at the lost wages, we could definitely provide and
19 forward either orally or I can brief the Court afterwards about
20 additional losses that aren't specific to lost income that deal
21 with -- because also 2259 looks at potential ongoing or
22 occurring-in-the-future harm. So psychological, emotional
23 therapy, long-term, I mean. If we look at the long-term effects
24 of the -- of what occurred, we know that for subject matter
25 experts with lived experience even at the United States advisory

—2:17-cr-00072-RFB—

1 counsel level that there is ongoing therapy for individuals who
2 are now adults in their 30s who were trafficked when they were
3 teenagers.

4 So aside from the fact that we're not admitting or the
5 Defense is not admitting to that unlawful activity, we know that
6 there's long-term therapy costs involved.

7 THE COURT: So let me say this, Ms. Mukhar, I want to
8 be clear. What I am finding is that Mr. Alexander has not
9 admitted that he prostituted this victim. It's not to say that
10 the record doesn't support, because I believe it does support,
11 that he brought her here and that she engaged in prostitution.
12 It's an important, I think, distinction.

13 So I'm not saying that she couldn't recover for the --
14 for trauma related to her engaged, potentially, in prostitution.
15 What I'm saying is there's a difference between me making that
16 finding and me making the finding that he was her pimp or
17 whatever the term you'd want to use is because then the lost
18 income's based upon ill-gotten gains, which is what your
19 argument has been. That's -- but I'm not saying, and I want to
20 be clear, that the Court is finding that she didn't engage in
21 prostitution. What I am saying is that the record does not
22 support -- support a finding that he specifically forced her
23 into prostitution or was her pimp.

24 But I do think the record supports a finding that she
25 engaged in unlawful activity here, which was prostitution, and

—2:17-cr-00072-RFB—

1 that she was transported, right, across state lines for the
2 purpose of that unlawful activity.

3 And I think that that's, again, an important
4 distinction because it doesn't lead to the Court finding that
5 Mr. Alexander would be subject to ill-gotten gains, but it
6 doesn't mean that he couldn't be subject to restitution related
7 to the unlawful activity that he facilitated.

8 Do you understand what I'm saying, Ms. Mukhar?

9 MS. MUKHAR: I do understand, Your Honor. And, you
10 know, and in the utmost respect it almost sounds as if what
11 we're asking is for the victim to admit that she's committed a
12 crime of prostitution herself. And -- and if -- upon that
13 admittance, there potentially is -- because that's what she
14 engaged in --

15 THE COURT: I'm not saying that.

16 I don't think there's any dispute, at least from what I
17 understand, that she engaged unfortunately in prostitution acts.
18 I don't -- I don't think you -- I thought that that was
19 something that unfortunately is what you admitted happened. So
20 I didn't understand that -- and I'm not asking that she admit to
21 additional conduct, right. That's not what I'm saying.

22 What I'm saying is that ill-gotten gains is based upon
23 a particular finding that he was her pimp. That's not a finding
24 I think that's supported by the record. But any trauma or other
25 effects with respect to the victim that occurred as a result of

2:17-cr-00072-RFB

1 this activity, I do think could be subject to restitution. I'm
2 not in any way suggesting that there would need to be further
3 findings as to what the unlawful activity was. I'm simply
4 finding that it can't be ill-gotten gains to him as a pimp
5 because that fact has not been established, but it can -- there
6 can be restitution as it relates to what the conduct was, right.
7 And what I mean by that is specifically there are categories
8 here related to medical and psychological current and future
9 expenses. There are other categories that may apply,
10 Ms. Mukhar.

11 And so all I'm asking you to do is to be able to have
12 the submission that itemizes those so that the Court can see
13 them specifically and rather than having to speculate about
14 them, because I don't think I can do that. And that would
15 include -- if you're going to be asking for fees, Ms. Mukhar,
16 that would include that as well. What I'm asking for is a
17 submission just to be very clear about what are the categories
18 under the relevant statute, which is 18 U.S.C. 2259, that you
19 think apply and what those amounts are with -- with a degree of
20 certainty and support so that the Court can rule on them
21 specifically.

22 And so, again, I'm not saying restitution doesn't
23 apply. I'm just saying it can't -- it does not apply in the
24 context on this record of ill-gotten gains to Mr. Alexander
25 based upon him being her pimp.

—2:17-cr-00072-RFB—

1 MS. MUKHAR: Thank you, Your Honor.

2 Yeah, I am happy to submit to the Court, as -- as you
3 highlighted, a breakdown or category itemizing different or
4 related losses as it pertains to Jane Doe's ongoing and
5 continued therapy.

6 THE COURT: And whatever -- or whatever other
7 categories under 2259, Ms. Mukhar, you think are appropriate.

8 MS. MUKHAR: Right.

9 THE COURT: And I leave it to you because you better
10 know what those potential categories would be. And I'm just
11 saying that I do find that 2259 is the appropriate statute, but
12 there are several different categories there. And so for me to
13 be able to order restitution, I would need to have a submission
14 that identifies which category you are relying upon and what the
15 amount is. And then that would also allow Mr. Riddle and
16 Mr. Alexander to be able to respond. But I don't think we can
17 do it today just generically without having more specific
18 information.

19 MS. MUKHAR: Thank you, Your Honor. I really
20 appreciate that. I'm sorry that this landed today and that we
21 weren't notified in advance because it's possible that we could
22 have already, you know, presented something to the Court if we
23 had known about the Defense filing that occurred last night.
24 So -- but I'm happy with the Court granting the additional time
25 to submit the breakdown of the different categories and itemize

2:17-cr-00072-RFB

1 those.

2 THE COURT: Okay. Well, I think that's appropriate.

3 How much time, Ms. Mukhar, do you think that you would need?

4 MS. MUKHAR: Your Honor, if we could do this within the
5 next two to three weeks, that would be great.

6 THE COURT: That's fine.

7 MS. MUKHAR: I understand the time constraint issues
8 with -- with Defense counsel. There might be -- with the
9 transition of new counsel.

10 THE COURT: So do you think if I gave you two weeks for
11 the submission and then we came back in three weeks, would that
12 work?

13 Mr. Riddle, would that potentially work?

14 MR. RIDDLE: Your Honor, I will be transitioning to
15 another office in the State of Utah during that time frame, but
16 I -- certainly I can bring another attorney up to speed on this
17 issue since it's just this one -- this one issue regarding
18 restitution I think somebody can be brought up to speed and can
19 handle that in my absence, Your Honor.

20 THE COURT: Okay. I appreciate that, Mr. Riddle,
21 because it would really be just the one issue, the very
22 focussed, particular issue we're talking about.

23 So, Ms. Mukhar, I'm happy to give you two weeks to
24 do -- to submit something. Let's say by August 20th.

25 MS. MUKHAR: Okay.

—2:17-cr-00072-RFB—

1 THE COURT: And let's see if we can't find a date after
2 that. Maybe September 2nd. Let's look at that date.

3 MS. MUKHAR: I'm just pulling up my calendar, Your
4 Honor.

5 MS. ROOHANI: Your Honor, me and Mr. Burton are not
6 available on that date. We have ... (audio distortion)

7 (Court reporter clarification.)

8 MS. ROOHANI: Sorry. I'll try to go slower.

9 Mr. Burton and I are not available on September the
10 2nd. We have an evidentiary hearing in front of Judge Ferenbach
11 that's likely to take all day.

12 THE COURT: Okay.

13 MS. ROOHANI: But in fairness, Your Honor, I should let
14 you know, I don't imagine that I'm going to have a lot to add.
15 I don't really have a dog in this fight at this point. So if
16 we -- if that's the date that works for everyone, we can find a
17 warm body to come and fill in for us.

18 THE COURT: Okay. How about August 26, Ms. Roohani and
19 Ms. Mukhar?

20 MS. MUKHAR: That works for me, Your Honor. Thank you.

21 MS. ROOHANI: That's fine, Your Honor. That will work.

22 THE COURT: Okay.

23 So let's look at the -- August 26, let's say,
24 around ... hold on.

25 (Pause.)

—2:17-cr-00072-RFB—

1 THE COURT: 3 o'clock.

2 Okay?

3 MS. MUKHAR: Yes, Your Honor.

4 THE COURT: All right then.

5 MS. ROOHANI: I'm sorry. If I may make a record on
6 just -- on one point.

7 THE COURT: Yes.

8 MS. ROOHANI: The only -- the only statement that I
9 wanted to make was regarding the JVTa assessment that's being
10 challenged. I want to make clear that the case law that was
11 cited by Defense counsel is correct. It's based upon
12 Mr. Alexander's future earning potential, which we do believe
13 that he has earning potential, but based upon the statute of
14 conviction, the Government is not seeking the JVTa in this case.
15 So the Court should not impose that.

16 THE COURT: Okay.

17 MS. ROOHANI: And so I think that will alleviate at
18 least one of the two issues on which the Government would be
19 asked to comment.

20 THE COURT: Okay. I appreciate that. Thank you for
21 that clarification.

22 So we'll come back then on August 26 at 3 o'clock to
23 finalize this restitution. And, Ms. Mukhar, we'll await your
24 submission on the 20th of August.

25 MS. MUKHAR: Thank you, Your Honor.

2:17-cr-00072-RFB

1 THE COURT: Is there anything else that we need to do
2 today?

3 THE DEFENDANT: Yeah, Your Honor.

4 THE COURT: Yes, Mr. Alexander.

5 THE DEFENDANT: I was going to say, what documents can
6 I present in my behalf concerning the 2259?

7 THE COURT: Well, we haven't seen what Ms. Mukhar's
8 going to present. Really --

9 THE DEFENDANT: Okay.

10 THE COURT: -- the documents are really about the
11 victim in this case. There's really nothing that you can
12 present that would, I think, be material. So, Mr. Alexander,
13 this is really about whatever expenses they think would be
14 associated with the victim. I don't think there's anything that
15 you could provide that would be relevant because it would all be
16 based upon the victim's expenses.

17 So your attorneys can make legal arguments, but there's
18 not any documents that I would envision would be material or
19 relevant that you could submit because it will be, and generally
20 is based upon the statute, her expenses. So you can speak with
21 your attorneys about that, but I don't think there's any
22 relevant documents for you to submit. There's simply an
23 argument -- as your attorneys have made arguments, they can make
24 legal arguments about what would be appropriate. But I don't
25 think that there's any -- there's no document that could be

~~2:17-cr-00072-RFB~~

1 submitted. Okay?

2 THE DEFENDANT: All right.

3 THE COURT: So all right then. Anything else,
4 Ms. Mukhar?

5 MS. MUKHAR: No, Your Honor. Thank you.

6 THE COURT: Mr. Riddle, anything else?

7 MR. RIDDLE: No, Your Honor. And I apologize for my
8 internet failures today.

9 THE COURT: That's all right. It happens.

10 Ms. Roohani, anything else?

11 MS. ROOHANI: No, Your Honor. Thank you for your time.

12 THE COURT: Okay. Everyone, please be well and be
13 safe. We'll be adjourned. Thank you.

14 THE DEFENDANT: All right. Thank you.

15 (Whereupon the proceedings concluded at 11:36 a.m.)

16

17

18

19

20

21

22

23

24

25

2:17-cr-00072-RFB

--oOo--

COURT REPORTER'S CERTIFICATE

I, PATRICIA L. GANCI, Official Court Reporter, United States District Court, District of Nevada, Las Vegas, Nevada, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Date: August 5, 2021.

/s/ Patricia L. Ganci

Patricia L. Ganci, RMR, CRR

CCR #937